



UNIVERSITY OF
TORONTO
FACULTY OF LAW

**THE LAW AND PRAXIS OF
INTERNATIONAL HUMAN RIGHTS**

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2006-2007

Nehal Bhuta

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FACULTY OF LAW
UNIVERSITY OF TORONTO

The Law and Praxis of International Human Rights

LAW294H1S

4 Credits

Tues: 4.10 – 6 pm, Thurs: 4.10 – 6 pm

Instructor: Nehal Bhuta

E-mail: tba

Office Hours: By appointment

This course aims to achieve two goals: first, to equip students with a technical competence in articulating, interpreting and responding to claims made in the language of international human rights law, and to enable students to navigate sources, principles and arguments effectively, and; second, to induce students – even as they familiarize themselves with the law of human rights – to simultaneously understand “human rights” as a field of political praxis. Through the course, students will ideally become more reflexive in understanding the diverse, and at times contradictory, political effects of articulating claims in terms of human rights, and the way in which “human rights” are used in local, national and global political struggles. Students will be encouraged throughout the course to “think the limits” of human rights as a political praxis, and the pros and cons of articulating demands in the language of human rights. Readings will be drawn from both law and social sciences.

Readings:

Readings are available in a course-packet from the Bookstore. Some readings not contained in the packet will be distributed ahead of the relevant classes.

Evaluation:

A. Analytical Paper (40%)

A 10-12 page (12 point font, double-spaced) analytical paper that engages with readings from at least two topics covered in the course. The analytical paper will demonstrate your command of the material you have read, by providing a concise synthesis of the argument in one or more readings, engaging in a confrontation and comparison of the arguments between different readings, and providing a reasoned critique of these arguments.

Time will be reserved in class in week 3 to discuss further the expectations for the analytical paper.

The paper will be due the first class after Reading Week.

B. Take-home Examination (60%)

A 24-hour take-home exam to be signed out from and returned to the Records Office. The examination may be taken during any 24 hour period between the first day of the examination period and due no later than the set deadline for written work in the applicable term.

The examination will be in the form of a hypothetical problem raising human rights law issues, and a short essay question. A word-limit on the take-home examination will be strictly enforced.

Reading Schedule

Week 1 (January 9, January 11)

- **Introduction and Course Overview**
- **What Are Human Rights? Politics, Philosophy, Law**
- a. Martti Koskenniemi, "Human Rights, Politics, and Love," *Mennesker & Rettigheter (The Nordic Journal of Human Rights)* 4/2001 pp. 33-45 (also reprinted in: *Finnish Yearbook of International Law*, Vol. 13 (2002) pp. 79-94)
- b. Costas Douzinas, *The End of Human Rights* (Hart Publishing: Oxford, 2000) pp. 1-13, 19-21, 84-128.
- ★ c. Rainer Forst, "The Basic Right to Justification: Toward a Constructivist Conception of Human Rights," *Constellations*, Vol. 6 (1999) pp.35-60.
- d. Sir Hersch Lauterpacht, *International Law and Human Rights* (New York: Praeger, 1950) pp.61-73, 94-123.
- e. Ian Balfour and Eduardo Cadava, "Introduction: The Claims of Human Rights," *The South Atlantic Quarterly*, Vol. 103 (2004) pp. 277-296.

Week 2 (January 16, January 18)

- **Historical Origins: The Age of Revolutions, The Age of Extremes and Human Rights**
- a. Document: Universal Declaration of Human Rights
- b. Lynn Hunt, "The Paradoxical Origins of Human Rights," in Jeffrey N. Wasserstrom, Lynn Hunt and Marilyn B. Young, eds, *Human Rights and Revolutions* (Rowman and Littlefield: Lanham MD, 2000) pp. 3-17.
- c. Hannah Arendt, *The Origins of Totalitarianism* (Meridian Books: Cleveland and New York, 1958) Part II, Chapter 9.
- d. Hannah Arendt, *On Revolution* (Penguin: New York, 1990 [1963]), pp. 108-9, 148-9. (to be distributed)
- e. Karl Marx, "On the Jewish Question," in Robert C. Tucker, ed, *The Marx-Engels Reader, Second Edition* (Norton: New York, 1978) pp.26-46.
- f. Mark Mazower, "The Strange Triumph of Human Rights, 1933-1950" *The Historical Journal*, Vol. 47 (2004) pp. 379-398.
- g. Paul Lauren Gordon, *The Evolution of International Human Rights: Visions Seen* (University of Pennsylvania Press: Philadelphia, 2003 [2nd edition]) pp.135-177.
- h. Johannes Morsink, *The Universal Declaration of Human Rights: Origins, Drafting and Intent* (University of Pennsylvania Press: Philadelphia, 1999) pp. 281-328.
- i. A.W. Brian Simpson, *Human Rights and the End of Empire: Britain and the Genesis of the European Convention* (Oxford University Press: Oxford, 2004) pp. 267-322 ("The Burdens of Empire").

Week 3 (January 23, January 25)

- **Human Rights and the Interstate System**
- a. Documents:
 - i. United Nations Charter.

- ii. United Nations General Assembly, Resolution 60/251, establishing the Human Rights Council, 3 April 2006.
- b. Sir Hersch Lauterpacht, *International Law and Human Rights* (New York: Praeger, 1950) pp. 145-183.
- c. Christian Tomushcat, *Human Rights between Idealism and Realism* (Oxford University Press: Oxford, 2004), pp. 112-190. **(to be distributed)**
- d. United Nations, *The United Nations and Human Rights 1945-1995*, United Nations Blue Books Series, Vol. VII. (UN/DPI: New York, 1996) pp. 29-111.
- e. Hurst Hannum, ed., *Guide to International Human Rights Practice* (Transnational Publishers: New Jersey, 2004 [4th edition]), pp. 43-89.
- f. Theodor Meron, *Human Rights Law-Making in the United Nations: A Critique of Instruments and Process* (Oxford University Press: Oxford, 1986) pp. 131-152.
- g. Philip Alston, "Reconceiving the UN Human Rights Regime: Challenges Confronting the New Human Rights Council," Center for Human Rights and Global Justice Working Paper, Number 4, 2006.

Weeks 4 and 5 (January 30, February 1; February 6, February 8)

- **The International Covenant on Civil and Political Rights**
Readings to be announced and provided in Week 3

Week 6 (February 13, February 15)

- **The International Covenant on Economic, Social and Cultural Rights**
Readings to be announced and provided in Week 5

Week 7 - Reading Week: February 19 – 23

Week 8 (February 27, March 1)

- **The International Covenant on Economic, Social and Cultural Rights**
Readings to be announced and provided in Week 5

Analytical Paper Due March 1

Weeks 9 and 10 (March 6, March 8; March 13, March 15)

- **Human Rights and Political Praxis I**
 - a. David Stoll, "To Whom Should We Listen? Human Rights Activism in Two Guatemalan Land Disputes," in Richard Wilson, ed., *Human Rights, Culture and Context: Anthropological Perspectives* (Pluto Press: London, 1997) pp. 187-215. **(to be distributed)**
 - b. Pheng Cheah, "Positioning Human Rights in the Current Global Conjuncture," Vol. 9, No.2 (1997) *Public Culture*. **(to be distributed)**
 - c. Sally Engle Merry, *Human Rights and Gender Violence: Translating International Law into Local Justice* (University of Chicago: Chicago, 2005) pp.36-70, 135-231. **(to be distributed)**
 - d. Yves Dezalay and Bryant Garth, *The Internationalization of Palace Wars: Lawyers, Economists, and the Contest to Transform Latin American States* (University of Chicago: Chicago, 2002) pp. 61-72, 124-140.

- e. Terry Eagleton, "Local and Global" in Obrad Savic, ed., *The Politics of Human Rights* (Verso: New York, 2000) pp. 258-267.
- **Human Rights and Political Praxis II**
- a. Andrew Moravcsik, "The Origins of Human Rights Regimes: The Origins of Democratic Delegation in Postwar Europe" Vol.54, No.2 (2000) *International Organization*, pp. 217-252.
- b. Ryan Goodman and Derek Jinks, "How to Influence States: Socialization and International Human Rights Law" Vol. 54, No.3 (2004) *Duke Law Journal* pp. 621-703.
- c. Ryan Goodman and Derek Jinks, "Measuring the Effects of Human Rights Treaties" Vol.14, No.1 (2003) *European Journal of International Law* pp.171-183.
- d. Robert Pape and Chaim D. Kaufman, "Explaining Costly International Moral Action: Britain's Sixty Year Campaign Against the Atlantic Slave Trade" Vol. 53, No.4 (1999) pp. 631-668.

Week 11 (March 20, March 22)

- **Non-Government Organizations and Human Rights**
- a. John Keane, *Global Civil Society?* (Cambridge University Press: Cambridge, 2003) pp. 1-39, 175-209.
- b. Margaret E. Keck and Kathryn Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics* (Cornell University Press: Ithaca, 1998) pp. 1-39, 79-120.
- c. Benedict Kingsbury, "Ascriptive Groups and the Problem of the Liberal NGO Model of International Civil Society" in Andras Sajó, ed., *Global Justice and the Bulwarks of Localism* (Brill: Leuven, 2005) pp. 129-141.
- d. Obrad Savic, "Parallel Worlds" NGOs and Civic Society" in Obrad Savic, ed., *The Politics of Human Rights* (Verso: New York, 2000) pp. 335-345.
- e. Stephen Hopgood, *Keepers of the Flame: Understanding Amnesty International* (Cornell University Press: Ithaca, 2006), pp.1-21, 73-104, 204-225. **(to be distributed)**
- f. Kenneth Anderson, "The Ottawa Convention Banning Landmines, The Role of International Non-Governmental Organizations and the Idea of International Civil Society" Vol.11 (2000) *European Journal of International Law*, pp.91-120.

Week 12 (March 27, March 29)

- **Beyond Universalism and Relativism**
- a. Richard Rorty, "Human Rights, Rationality and Sentimentality" in Obrad Savic, ed., *The Politics of Human Rights* (Verso: New York, 2000) pp. 67-83.
- b. Martin Chanock, "Human Rights and Cultural Branding: Who Speaks and How" in Abdallah An-Naim, ed., *Cultural Transformation and Human Rights in Africa* (Zed Press: London, 2002) pp. 38-67.
- c. Talal Asad, "On Torture" in Richard Wilson, ed., *Human Rights, Culture and Context: Anthropological Perspectives* (Pluto Press: London, 1997) pp. 111-133. **(to be distributed)**
- d. Belinda Preis, "Human Rights as a Cultural Practice" Vol. 18 (1996) *Human Rights Quarterly* pp. 286-315.

- e. Sally Engle Merry, *Human Rights and Gender Violence: Translating International Law into Local Justice* (University of Chicago: Chicago, 2005) pp. 1-35. **(to be distributed)**
- f. Arjun Appadurai, "The Capacity to Aspire" in Vijayendra Rao and Michael Walton, eds, *Culture and Public Action* (Stanford University Press: Palo Alto, 2004) pp. 59-84.

Week 13 (April 3, April 5)

- **The Futures of International Human Rights: Global Justice or Imperial Right?**
- a. Rainer Forst, "Towards a Critical Theory of Transnational Justice", Vol. 32 (2001) *Metaphilosophy* pp.160-179.
- b. Mike Davis, "Planet of the Slums" *New Left Review*, No. 26, March-April 2004, pp.5-34.
- c. Makau Mutua, "The Limits of Rights Discourse," in *Human Rights: A Political and Cultural Critique* (University of Pennsylvania: Philadelphia, 2002) pp.126-153. **(to be distributed)**
- d. Jean Cohen, "Sovereign Equality vs. Imperial Right", manuscript, forthcoming in *Constellations: An International Journal of Democratic and Critical Theory*.
- e. David Rieff, "The False Dawn of Civil Society", *The Nation* (New York), February 22, 1999, <http://www.thenation.com/doc/19990222/rieff>
- f. David Rieff, "We Are the World", *The Nation* (New York), July 3, 2006, <http://www.thenation.com/doc/20060703/rieff>
- g. Slavoj Zizek, "Against Human Rights" *New Left Review*, No. 34, July-August 2005, pp. 115-131.

Week 14 (April 10, April 12)

- **Review Week**

